

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRAVIS CLINTON COLEMAN ,

Plaintiff,

v.

C. MERRITT, et al.,

Defendant.

CASE NO. 2:24-cv-01566-JCC-BAT

**ORDER DIRECTING SERVICE OF
CIVIL RIGHTS COMPLAINT**

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding with this action *pro se* and *in forma pauperis*. The Court, having reviewed plaintiff's complaint, hereby ORDERS as follows:

(1) Service by Clerk

The Clerk is directed to send the following to Defendants all of whom are employees of the King County Jail: C. Merritt, Jail Officer; L. Arias, Jail Officer; G. Robinson, corrections supervisor; R. Prioleau, classifications officer; R. Kintner, classifications staff supervisor; I. Idiong, classifications staff; and Hurt, classifications staff, by first class mail: a copy of plaintiff's complaint, a copy of this Order, two copies of the notice of lawsuit and request for waiver of service of summons, a waiver of service of summons, and a return envelope, postage prepaid, addressed to the Clerk's Office.

1 **A courtesy copy of the complaint**, this order, notice of lawsuit and request for waiver of
 2 service of summons, a waiver of service of summons shall also be provided to the King County
 3 Prosecuting Attorney's Office, Civil Litigation Department, 516 Third Avenue, W400, Seattle,
 4 WA 98104.

5 (2) Response Required

6 Defendant(s) shall have **thirty (30) days** within which to return the enclosed waiver of
 7 service of summons. A defendant who timely returns the signed waiver shall have **sixty (60)**
 8 **days** after the date designated on the notice of lawsuit to file and serve an answer to the
 9 complaint or a motion permitted under Rule 12 of the Federal Rules of Civil Procedure.

10 A defendant who fails to timely return the signed waiver will be personally served with a
 11 summons and complaint and may be required to pay the full costs of such service, pursuant to
 12 Rule 4(d)(2) of the Federal Rules of Civil Procedure.

13 (3) Filing and Service by Parties, Generally

14 All attorneys admitted to practice before this Court are required to file documents
 15 electronically via the Court's CM/ECF system. Counsel are directed to the Court's website,
 16 www.wawd.uscourts.gov, for a detailed description of the requirements for filing via CM/ECF.
 17 All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original
 18 with the Clerk. All filings, whether filed electronically or in traditional paper format, must
 19 indicate in the upper right-hand corner the name of the magistrate judge to whom the document
 20 is directed.

21 For any party filing electronically, when the total of all pages of a filing exceeds fifty
 22 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as
 23

1 necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy must be
2 clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers."

3 Any document filed with the Court must be accompanied by proof that it has been served
4 upon all parties that have entered a notice of appearance in the underlying matter.

5 (4) Motions, Generally

6 Any request for court action shall be set forth in a motion, properly filed and served.
7 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
8 part of the motion itself and not in a separate document. The motion shall include in its caption
9 (immediately below the title of the motion) a designation of the date the motion is to be noted for
10 consideration upon the Court's motion calendar.

11 The motion shall be noted in accordance with LCR 7(d). Motions including stipulated
12 and agreed motions, motions to file over-length motions or briefs, motions for reconsideration,
13 joint submissions pursuant to the optional procedure established in LCR 37(a)(2), motions for
14 default, requests for the clerk to enter default judgment, ex parte motions, motions to recuse, and
15 motions for a temporary restraining order shall be noted for consideration on the day they are
16 filed. LCR 7(d)(1). Other non-dispositive motions shall be noted for consideration no earlier
17 than 21 days from the date of filing. LCR 7(d)(3). All dispositive motions, and motions such as
18 a motion seeking a preliminary injunction or a motion directed toward changing the forum, shall
19 be noted for consideration no earlier than 28 days after filing. LCR 7(d)(4).

20 For electronic filers, any opposition to a non-dispositive motion shall be filed and
21 received by the moving party no later than 15 days after the filing date of the motion, and any
22 reply shall be filed and received by the opposing party no later than 21 days after the filing date
23 of the motion. LCR 7(d)(3). Any opposition to a dispositive motion by an electronic filer shall

1 be filed and received by the moving party no later than 21 days after the filing date of the motion
 2 and any reply shall be filed and received by the opposing party no later than 28 days after the
 3 filing date of the motion. LCR 7(d)(4).

4 If a party (i.e., a *pro se* litigant and/or prisoner) serves an opposition by mail, the deadline
 5 for filing and serving such opposition shall be 3 days earlier than the deadlines provided in LCR
 6 7(d)(3) and 7(d)(4).

7 (5) Motions to Dismiss and Motions for Summary Judgment

8 Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil
 9 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil
 10 Procedure should acquaint themselves with those rules. As noted above, these motions shall be
 11 noted for consideration no earlier than 28 days after filing and service of the motion.

12 Defendants filing motions to dismiss or motions for summary judgment are advised that they
 13 MUST serve *Rand* and *Wyatt* notices concurrently with motions to dismiss and motions for
 14 summary judgment so that *pro se* prisoner plaintiffs will have fair, timely and adequate notice of
 15 what is required of them in order to oppose those motions. *Woods v. Carey*, 684 F.3d 934, 941
 16 (9th Cir. 2012). The Ninth Circuit has set forth model language for such notices:

17 A motion for summary judgment under Rule 56 of the Federal Rules of Civil
 18 Procedure will, if granted, end your case.

19 Rule 56 tells you what you must do in order to oppose a motion for summary
 20 judgment. Generally, summary judgment must be granted when there is no genuine
 21 issue of material fact – that is, if there is no real dispute about any fact that would
 22 affect the result of your case, the party who asked for summary judgment is entitled
 23 to judgment as a matter of law, which will end your case. When a party you are
 suing makes a motion for summary judgment that is properly supported by
 declarations (or other sworn testimony), you cannot simply rely on what your
 complaint says. Instead, **you must set out specific facts in declarations,
 depositions, answers to interrogatories, or authenticated documents, as
 provided in Rule 56(e), that contradict the facts shown in the defendant's
 declarations and documents and show that there is a genuine issue of material**

1 **fact for trial. If you do not submit your own evidence in opposition, summary**
2 **judgment, if appropriate, may be entered against you. If summary judgment**
3 **is granted, your case will be dismissed and there will be no trial.**

4 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added); *see Wyatt v. Terhune*, 315
5 F.3d 1108, 1120 n.14 (9th Cir. 2003) (extending the fair notice requirement to motions to dismiss
6 for failure to exhaust administrative remedies).

7 Defendants who fail to file and serve the required *Rand* and *Wyatt* notices on plaintiff
8 may have their motion stricken from the Court's calendar with leave to re-file.

9 (6) Direct Communications with District Judge or Magistrate Judge

10 No direct communication is to take place with the District Judge or Magistrate Judge with
11 regard to this case. All relevant information and papers are to be directed to the Clerk.

12 (7) The Clerk is directed to send copies of this Order and the Court's *pro se*
13 instruction sheet to plaintiff. The Clerk is further directed send a copy of this Order and a
14 courtesy copy of plaintiff's complaint to the King County Prosecuting Attorney's Office, by
15 first-class mail.

16 DATED this 1st day of October, 2024.

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18 _____
19 BRIAN A. TSUCHIDA
20 United States Magistrate Judge
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